

Atty. Ref. No. 016781/0626

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

VINA SAN PEDRO, S.A.

Opposer,

v.

FINANCIERE VRANKEN

Applicant

**VIA FACSIMILE TO 703-746-7078**  
**Trademark Trial and Appeal Board**  
**Attn.: Cindy B. Greenbaum**

Opposition No. 110,853

**CERTIFICATE OF FACSIMILE TRANSMISSION**  
 I hereby certify that this paper is being facsimile  
 transmitted to the United States Patent and Trademark  
 Office, Washington, D.C. on the date below.

Geoffrey M. McNitt  
 (Printed Name)

Geoffrey M. McNitt  
 (Signature)

26 April 2004  
 (Date of Deposit)

**RESPONSE TO SHOW CAUSE ORDER**

Applicant, by and through its undersigned counsel, hereby responds to the show cause order issued by the Trademark Trial and Appeal Board on April 20, 2004. As demonstrated herein, the show cause order was issued in error and should be withdrawn.

By virtue of the Board's order dated February 24, 2004, Applicant's Answer was due on March 16, 2004. Applicant's answer was timely filed by hand-delivery to the U. S. Patent and Trademark Office on March 16, 2004, as demonstrated by the attached copy of the stamped post card receipt. Exhibit A. Also attached is a copy of Applicant's answer as filed. Exhibit B.

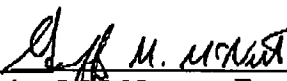
Applicant has provided evidence to confirm that its answer in this case was timely filed and received by the Patent and Trademark Office on March 16, 2004.

Opposition No. 110,853

Accordingly, it is respectfully requested that Board withdraw the default judgment and enter the attached copy of Applicant's previously filed answer.

Respectfully submitted,

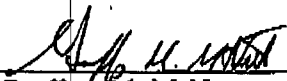
Date: April 26, 2004

By:   
Brian J. McNamara, Esq.  
Geoffrey M. McNutt, Esq.  
Attorneys for Applicant  
Foley & Lardner LLP  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5109  
(202) 672-5300

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Applicant's RESPONSE TO SHOW CAUSE ORDER was served on Opposer this **26th day of April, 2004**, by mailing the same, via first class mail, postage prepaid, to Opposer's counsel, as follows:

Cynthia Clarke Weber, Esq.  
Sughrue Mion PLLC,  
2100 Pennsylvania Avenue, N.W.,  
Washington, D.C. 20037-3213

  
Geoffrey M. McNutt  
Foley & Lardner LLP

**EXHIBIT A**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Box.: TTAB

VINA SAN PEDRO

Opposer,

v.

FINANCIERE VRANKEN

Opposition No.: 110,853

Application Serial No.: 75/161,464

Applicant.

RECEIPT IS HEREBY ACKNOWLEDGED OF THE FOLLOWING:

**Answer To The Notice of Opposition with Certificate of Service**

**DATE FILED: March 16, 2004**

**DATE DUE: March 16, 2004**

**FILE IN MAIL ROOM**

GMM/am

CLT/MTR: 016781/0626

INSPECTED BY: 

**EXHIBIT B**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Atty. Ref. No. 016781/0626

VINA SAN PEDRO, S.A.

Opposer,

v.

FINANCIERE VRANKEN

Applicant.

Opposition No. 110.853

**BOX TTAB – NO FEE**  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

**ANSWER TO THE NOTICE OF OPPOSITION**

Applicant, by and through its undersigned counsel, hereby responds to the Notice of Opposition.

The unnumbered allegation of damage in the preface is denied.

1. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 1 of the Notice of Opposition and therefore denies said allegations.

2. Applicant admits that its subject application was filed on September 5, 1996. With respect to the remaining statements and/or allegations contained in numbered Paragraph 2, Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 2 of the Notice of Opposition and therefore denies said allegations.

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3. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 3 of the Notice of Opposition and therefore denies said allegations.

4. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 4 of the Notice of Opposition and therefore denies said allegations.

5. Applicant denies the allegations set forth in numbered Paragraph 5 of the Notice of Opposition to the extent that such allegations state that "the application herein opposed seeks to register the mark SAO PEDRO". The subject application seeks to register the mark SAO PEDRO PORTO DAS AGULAS RUBY SUPERIOR PREMIUM QUALITY in conjunction with a design.

6. Applicant has insufficient knowledge or information to form a belief as to the truth of the allegations set forth in numbered Paragraph 6 of the Notice of Opposition and therefore denies said allegations.

7. Applicant denies the allegations set forth in numbered Paragraph 7 of the Notice of Opposition.

8. Applicant denies the allegations set forth in numbered Paragraph 8 of the Notice of Opposition and denies the allegations set forth in subparts (a) and (b) of numbered Paragraph 8.

9. Applicant denies the allegations set forth in numbered Paragraph 9 of the Notice of Opposition.

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**AFFIRMATIVE DEFENSES**

1. Opposer has failed to state a claim upon which relief may be granted.
2. Opposer lacks standing to bring this opposition.
3. The opposition is barred by the doctrines of laches and waiver.
4. Opposer cannot be damaged by registration of Applicant's subject U.S.

Application Serial No. 75/161,464 because Applicant is also the owner of U.S. Registration No. 2,024,861 for the mark SAO PEDRO DAS AGUIAS for "wine", which registration issued on the Principal Register over five years ago, on December 24, 1996.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed with prejudice and on the merits.

Respectfully submitted,

ATTORNEYS FOR APPLICANT

Date: 16 March 2004

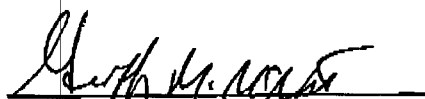
By: Brian J. McNamara, Esq.

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3000 K Street, N.W., Suite 500  
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(202) 672-5300

Opposition No. 110,853

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Applicant's ANSWER TO THE NOTICE OF OPPOSITION was served on Opposer, by mailing the same, via first class mail, postage prepaid, this 16<sup>th</sup> day of March, 2004, to Opposer's counsel, Cynthia Clarke Weber, Esq., of the firm Sughrue Mion PLLC, 2100 Pennsylvania Avenue, N.W., Washington, D.C. 20037-3213.

  
Geoffrey M. McNutt



FOLEY & LARDNER LLP  
ATTORNEYS AT LAW

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WASHINGTON, D.C. 20007-5143  
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## FACSIMILE TRANSMISSION

Total # of Pages 10 (including this page)

TO:	PHONE #:	FAX #:
Cindy B. Greenbaum U.S. Patent and Trademark Office Before the Trademark Trial and Appeal Board		703 746 7078

From : Geoffrey M. McNutt

Date : April 26, 2004

Client/Matter No : 016781-0626

User ID No : 6020

### MESSAGE:

VINA SAN PEDRO, S.A. v. FINANCIERE VRANKEN  
Opposition No. 110,853

As requested in your telephone conversation Friday with Mrs. Rose Ann Wieland of our office, attached is Applicant's Response to the Show Cause Order along with Exhibits A and B.

Please contact us if you require any additional documentation.

If there are any problems with this transmission or if you have not received all of the pages, please call .

Operator:	Time Sent:	Return Original To: Rose Ann Wieland
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